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CA-11272

HANDLING INDICATOR

NO.

TO : Amconsul NASSAU
INFO: Amembassy LONDON

OCT 2 9 36 AM '68

FROM : Department of State

DATE:

SUBJECT : Status of Bahamian 12-mile fishing limit

REF : Nassau's A-162 of August 22, 1968

The Consul General may wish to draw upon the following points in discussing the proposed 12-mile fishing limit with GOBI officials.

1. The US appreciates the opportunity to comment on the GOBI's contemplated fisheries zone legislation. The USG shares the GOBI's desire to avoid any misunderstandings which might arise in connection with possible US claims to fishing within the contemplated fisheries zone.

2. US POLICY ON FISHING LIMITS AND ON RECOGNITION OF TRADITIONAL FISHING RIGHTS WITHIN THE FISHERIES ZONE:

International law
a. recognizes the competence of a coastal state to extend its jurisdiction over fisheries in a zone contiguous to the territorial sea, but no wider than 12 miles from the baseline from which the breadth of the territorial sea is measured.

US policy was embodied in PL 89-658, approved October 14, 1966. That law established a fisheries zone for the US contiguous to the territorial sea and extending 12 miles seaward of the baseline from which the territorial sea is measured. The

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FORM 10-64 DS-323

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law provides for the US the same exclusive rights with respect to fisheries in the zone as it reserves in the territorial sea. (A copy of PL 89-658 is attached.)

b. The US also recognizes, ^{of permitting} however, the wisdom/foreign states to continue their activities within the contiguous zone, on the premise that:

i. Fishery resources not fully utilized by the coastal state should not go unharvested; and

ii. to end these traditional fisheries abruptly could work a severe economic hardship on foreign nationals.

Accordingly, PL 89-658 permitted the continuation of traditional fishing by foreign states within the US fisheries zone.

3. US PRACTICE IN EVALUATING TRADITIONAL FISHERIES CLAIMS:

a. The US has applied and continues to apply certain criteria to evaluating foreign claims to traditional fishing rights in its contiguous zone. The USG considers:

i. Whether the resources desired by foreign fishermen are presently being harvested by American fishermen;

ii. Whether foreign fishing in the areas in question would interfere with the operations of American fishermen or would create problems of conservation;

iii. Whether there is concrete evidence of previous foreign fishing in the zone to indicate a substantial economic interest in the area, and consequently a substantial adverse impact on the foreign industry if excluded from the zone; and

iv. Whether the foreign fishing in question, regardless of the length of its history, has been so inconsequential or trivial as to present little or no practical justification for its continuation.

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b. At the time PL 89-658 was enacted, the US invited the Governments of Japan, Canada and Mexico to submit information on their traditional fisheries in the newly created fisheries zone. Due consideration was given to these claims in agreements reached with Mexico, and Japan, and in agreed arrangements arrived at with the Government of Canada.

FYI

c./ The following is for Consul General's information and background only. PL 89-658 permits the continuation of traditional fishing in the US contiguous zone without any limit of time and without any phase-out requirement. Mexico's fisheries zone law, enacted in December 1966, called for phasing out all foreign fishing by December 31, 1972. When it goes into effect, this requirement will work a severe economic hardship on some sectors of the US fishing industry. US practice, in accord with growing international practice, seeks to avoid working such hardships on foreign fishermen. END FYI.

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4. The USG hopes that/the GOBI

promulgates and applies a fisheries zone law, it would provide for the continuation of traditional US fishing rights in that zone. American fishermen engage in a substantial spiny lobster fishery in the waters immediately surrounding the Bahama Islands. They have fished for a number of years in four principal areas:

1. Cay Sal Bank. This area is fished throughout the year by American spiny lobster fishermen. Approximately 40 American boats fish regularly in the area, taking an annual catch of 500,000 pounds.

2 & 3. Great Isaac to Stirrup Cay, and Riding Rocks southward. These two areas are fished by American fishermen from Miami. Approximately 50 American boats fish there, taking a combined annual catch in the two

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areas of 1,000,000 pounds.

4. East from Cay Lobas to the Cochinas Bank and north from Cay Lobas to Tongue of the Ocean. American fishermen have fished extensively in this area for several years. Some 30 craft fish there. In 1967 their catch--which was measured in this instance as tails only--amounted to 600,000 pounds.

The foregoing figures cover catches made between August and March and landed at Florida ports. In addition to these catches, the same boats operating on the same grounds catch an additional 1,000,000 pounds of spiny lobster between April and July. This additional catch is landed at ports in Georgia.

If the GOBI closed these grounds to US fishermen, it would work a severe economic hardship on them. Spiny lobster grounds throughout the eastern Atlantic, Gulf of Mexico and Caribbean Sea are intensively fished and US lobster fishermen could not shift their efforts to other areas. And because they have invested in boats and gear specifically designed for lobster fishing, closure of the Bahamian fishing grounds would lose them the capital invested in present equipment and would force them to invest in new boats and gear.

5. INTERNATIONAL PRECEDENTS. While practice has not been completely uniform throughout the world, there is ample international precedent to support US policy. The 1964 London Fisheries Convention among 14 European nations provided for the continuation of traditional fisheries in an outer 6 mile zone without time limit. A copy of the Convention is attached.

The Department has a keen interest in further progress on the GOBI's contemplated fisheries zone legislation and would appreciate reports as developments occur.

KATZENBACH, ACTING

Enclosures: Copy of PL 89-658
Copy of London Fisheries Convention of 1964